

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: Avandia Marketing Sales Practices
And Products Liability Litigation

MDL No. 1871

Case No. 2:07-cv-04983-CMR

THIS DOCUMENTS RELATES TO ALL
ACTIONS

Hon. Cynthia M. Rufe

**APPLICATION OF BRYAN F. AYLSTOCK
FOR APPOINTMENT TO THE PLAINTIFFS' STEERING COMMITTEE**

Bryan F. Aylstock, pursuant to Case Management Order No. 1, respectfully files the within application for appointment as a member of the Plaintiffs' Steering Committee for the Avandia Marketing, Sales Practices, and Products Liability Litigation. Bryan Aylstock is willing and available to serve as a member of the Plaintiffs' Steering Committee, has the ability to work cooperatively with all parties, and has the requisite professional experience and skill to assist in the orderly advancement of this litigation.

Mr. Aylstock has demonstrated his willingness and availability and is fully prepared to commit his time and his firm's resources necessary to effectively serve as a member of the Plaintiffs' Steering Committee.¹ Since the inception of this litigation, Bryan Aylstock, along with Mark Lanier and Vance Andrus, has actively sought to coordinate with other Plaintiff's counsel regarding the Avandia litigation. Mr. Aylstock and members of his firm have presented presentations at several different conferences and/or teleconferences regarding the Avandia litigation, including the first Mealey's Conference in Chicago. Further, Bryan Aylstock advocated for a creation of the MDL and attended the hearing before transfer and consolidation by the JPMDL.

Mr. Aylstock understands the importance of cooperating with his colleagues, both from the Plaintiff and Defense bars. Much of Mr. Aylstock's success is a direct result of his ability to negotiate and to cooperate with others. Recently, Mr. Aylstock and his firm successfully coordinated the filing and management of over 2500 diet-

¹ Bryan Aylstock is lead or co-counsel of record in the following Avandia cases presently before Your Honor: *Cartwright, et al. v. GlaxoSmithKline*, 2:07-cv-04959-CMR; *Phillips, et al., v. GlaxoSmithKline*, 2:07-cv-04982-CMR; *Layton v. SmithKline Beecham*, 2:07-cv-05443-CMR; *Hibbard v. SmithKline Beecham, et al.*, 2:08-cv-00208-CMR; *Johnson v. GlaxoSmithKline*, Case No. 3:05cv505/MCR/MD; *Naylor v. SmithKline Beecham*, 2:08-cv-00411-CMR; *Noe v. SmithKline Beecham Corp.*, 2:08-cv-00494-CMR; *Parker v. SmithKline Beecham Corp.*, 2:08-cv-00781-CMR; and *Parish v. GlaxoSmithKline*, 2:2008cv01081-CMR. Moreover, Bryan Aylstock is counsel of record in *McAdams v. SmithKline Beecham* and *Jackson v. SmithKline Beecham* currently in the process of being transferred and consolidated in this MDL before Your Honor.

drug cases filed by over twenty different law firms in Massachusetts, including leading the Plaintiffs' effort in cooperatively working with Defense counsel to establish a complex case management order to effectively move those cases forward towards representative trial settings, and resolution. Moreover, Mr. Aylstock has actively participated in Avandia planning sessions with both Plaintiff and Defense counsel and has personally worked with lead counsel for GlaxoSmithKline in the context of this and other litigation in a cooperative manner.

Bryan Aylstock possesses the requisite professional experience and skills necessary to be appointed as a member of the Plaintiffs' Steering Committee. Mr. Aylstock earned a Bachelor of Arts degree in history from the University of North Florida in 1992 (magna cum laude), and graduated number one in his law school section at the University of Florida in May 1995.² After completing law school, he was accepted as an Honors Intern at the United States Department of Justice, where he worked for the Director of the Federal Tort Claims Act Division on such high profile matters as Ruby Ridge and Waco. Thereafter, Mr. Aylstock served as a judicial clerk for the Honorable Roger Vinson, Chief Judge for the United States District Court, Northern District of Florida.

Mr. Aylstock is presently licensed to practice before all State and Federal Courts in Florida, having passed the Florida Bar with the highest score in Florida's First Appellate District. He is also licensed to practice before all Alabama and Mississippi State and Federal Courts, the United States District Court for the Southern District of Illinois, and the United States Court of Appeals for the Eleventh Circuit. Mr. Aylstock is a member of the American Inns of Court, the American Association for Justice, and the Florida Justice Association. Moreover, the vast majority of Mr. Aylstock's legal career has been focused on the representation of individuals injured as a result of defective pharmaceutical drugs and medical devices. During the course of Mr. Aylstock's career, he has overseen the litigation of thousands of fen-phen lawsuits in the *In re Diet Drug Products Liability Litigation*, MDL No. 1203. Since founding his present firm in 2001, he has represented thousands of individuals injured by products such as Baycol, Fen-phen, Zyprexa, Ortho-Evra birth control patches, phenylpropanolamine (PPA), Avandia, Vioxx, defective knee and hip implants, and defective defibrillators. Mr. Aylstock's law firm is comprised of 10 attorneys, and 30 staff members who have directly handled the claims of over 6000 clients over the past 6 years.

² During law school, Mr. Aylstock was both an associate and a senior editor of the Florida Law Review, received the American Jurisprudence Award in Constitutional Law, became a member of The Order of the Coif, worked as a defense counsel for the University of Florida Honor Court, and served as a Teaching Fellow.

Mr. Aylstock is regularly invited to speak at attorney education conferences on issues related to the handling of pharmaceutical and medical device cases, electronic discovery in complex cases, and other mass tort issues.³ Bryan Aylstock has developed substantial experience in handling complex class litigation consolidated within the multi-district mechanism, having served as co-chair of the discovery committee on the *In re: High Sulfur Content Gasoline Products Liability Litigation*, MDL Docket No. 1632 (E.D. La). Members of Mr. Aylstock's firm have served as Co-Lead counsel in the *In re: America Online, Inc. Version 5.0 Software Litigation*, MDL Docket No. 1341 (S.D. Fla.) and regularly serve on leadership and committee roles on numerous cases consolidated through the multi-district litigation mechanism.⁴ Through Mr. Aylstock's work on these and other cases, he has become thoroughly familiar with the duties and responsibilities of counsel in mass torts and class litigation and those set forth in the *Manual for Complex Litigation*.

Because of Mr. Aylstock's vast experience in complex litigation, he has garnered the administrative and organizational skills that will be useful in the coordination of the very large number of cases that are likely to become part of the Avandia MDL.

/s/ Bryan F. Aylstock _____
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³ Some of Mr. Aylstock's recent mass tort related speaking engagements include: Litigation Update, Louisiana Trial Lawyers Association annual convention (2006 & 2007); Cox-2 Litigation Update: Vioxx, Bextra and Celebrex, Arkansas Trial Lawyers Association, Eureka Springs, Ark, May 29, 2005; Mealey's Vioxx New Orleans, Litigation Update From the Field, Mealey's Fen-Phen Litigation Conference, Philadelphia, PA, December 6, 2004; New Liability Issues and Sales Force Discovery, Association of Trial Lawyers of America ("ATLA") Fen-Phen Litigation Group Seminar, Boston, MA, July 2, 2004; Liability Case Update, Majority Counsel Diet Drug Litigation Seminar, May 22, 2004; Sales Force Depositions, Majority Counsel Diet Drug Litigation Seminar, May 21, 2004; New Litigation Strategies, ATLA Fen-Phen Litigation Group Seminar, Orlando, FL, February 13, 2004; Sales Representative Discovery, Williams-Petroff Diet Drug Seminar, Orlando, FL, February 11, 2004.

⁴ *In re: Vioxx Products Liability Litigation*, MDL Docket No. 1657 (E.D. La.)(Discovery Sales and Marketing Committee and the Federal/State Liaison Committee), *In re: Medtronic Defibrillator Litigation*, MDL Docket No 1726. (Co-Chair of the Plaintiffs' Discovery Committee), *In re: Guidant Corp. Implantable Defibrillator Product Liability Litigation*, MDL Docket No. 1708 (Plaintiff's Steering Committee Member, Chair-Settlement Allocation Committee and Discovery Committee Member), *Katz v. DryClean USA, DCI Management Group, LTD, et al.*, Civ Action No. 02-27169-CA-27 (Dade County Circuit Court) (imposition of unlawful charges by dry cleaners); *Hinote v. Ford Motor Company*, Case No. 2004 CA 1658 (Escambia County Circuit Court) (consumer class for defective door latches on certain Ford vehicles).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Application for Appointment to Plaintiff's Steering Committee was filed electronically and is available for viewing and downloading from the ECF system. A true and correct copy of the foregoing was served upon all counsel of record as reflected in the Court's service list as of March 21, 2008 by either electronic service or via first class mail, postage pre-paid, this 21st day of March, 2008:

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